

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Timber View Properties, Inc.	:	
	:	Case No. 2:15-cv-2855
Plaintiff,	:	
vs.	:	Judge George C. Smith
	:	
M&T Property Investments LTD	:	Magistrate Judge Vascura
	:	
Defendant.	:	

**NOTICE OF VOLUNTARY DISMISSAL BY PLAINTIFF TIMBER VIEW
PROPERTIES, INC., PER FED. R. CIV. P. 41(a)(2),
AS AUTHORIZED BY ORDER (Doc. 100)**

Now comes the Plaintiff Timber View Properties, Inc., (hereinafter “Timber View”), and tenders its Notice of Dismissal of its remaining claims pursuant to Fed. R. Civ. P. 41(a)(2).

The original claims in this action involved Timber View’s claims seeking, inter alia, foreclosure of M&T’s interests in property located at 15111 State Route 664 South, Logan, Ohio 43138, (hereinafter the “Property”), related to certain unpaid notes and mortgages owned by Timber View.

In the Fall of 2018 this matter was referred to mediation before Judge Watson. (Doc. 87). In preparation for that mediation the Plaintiff obtained an updated appraisal of the Property and that appraisal was shared at the December 14, 2018 mediation with both Judge Watson and M&T’s principal Mark Anthony. The December 14, 2018, mediation did not conclude that day and was continued; to be rescheduled at a later date. (Doc. 93). Since the commencement of this action the principal indebtedness at issue, together with accruing interest and other charges fully exhausted M&T’s equity interest in the Property.

Timber View and M&T have reached a compromise and settlement of Timber View’s claims that were asserted in this action. As a part of the resolution, M&T has obtained a release

with respect to its liability upon the indebtedness at issue, resulting from its conveyance of its interest in the underlying Property to a third-party that has both assumed the obligations associated with the indebtedness owed to Timber View and the Property's outstanding real estate tax obligations owed to the county treasurer. Neither M&T nor Mark Anthony, (the sole member of M&T), have any interest said third party. The outstanding indebtedness owed to Timber View will continue to be secured by its existing mortgages in the Property; and those mortgages have not been released. Accordingly, Timber View hereby notices its dismissal of its remaining claims asserted in this action without prejudice, as a consequence of: the settlement and compromise reached with M&T; and the assignment and assumption, and reinstatement of the underlying indebtedness in favor of a third-party other than M&T.

The undersigned appreciates this Court's foresight in affording relief to Timber View to file a Notice of Dismissal, pursuant to Fed. R. Civ. P. 41(a), given the absence of an appearance of counsel for M&T to file a stipulation of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii). The prior oversight and involvement of this Court's Magistrate Judge Kemp was equally appreciated by the Plaintiff during these proceedings.

For purposes of judicial administration, Timber View will pay the attorney fees and expenses of David Skrobot, the federal receiver appointed in this case; and existing and outstanding court costs, if any, will be borne by the Plaintiff Timber View Properties, Inc.

Respectfully submitted,

/s/ Kevin E. Humphreys

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Trial Attorney for the Plaintiff Timber View Properties, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that on September 27, 2019, the forgoing was served upon all counsel entitled to service via the Clerk's ECF filing system and upon the registered participants therein.

For the Receiver – David A. Skrobot:

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/s/ Kevin E. Humphreys
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